

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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|--------------------|------------------------------------|--------------------------|---------------------|
| <b>Applicant:</b>  | Anne M. Pianca, et al              | <b>Confirmation No.:</b> | 3029                |
| <b>Serial No.:</b> | 10/081,457                         | <b>Examiner:</b>         | Evanisko, George R. |
| <b>Filed:</b>      | February 21, 2002                  | <b>Art Unit:</b>         | 3762                |
| <b>Docket No.:</b> | 98P1021US08                        |                          |                     |
| <b>For:</b>        | SELF-ANCHORING CORONARY SINUS LEAD |                          |                     |

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**TRANSMITTAL LETTER, RESPONSE, AND CERTIFICATE OF MAILING**

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith for filing are the following documents:

- X   Submission of New Declaration and Remarks
- X   Transmittal Letter, Fee and Cert. of Mailing

CERTIFICATE OF MAILING OR TRANSMISSION

Electronically filed: November 7, 2007

  
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Melinda E. Hallmark

**PATENT**

| CALCULATION OF FEES |   |   |   |                       |                     |        |
|---------------------|---|---|---|-----------------------|---------------------|--------|
| ITEM                |   | NO. OF CLAIMS<br>REMAINING AFTER<br>AMENDMENT | NO. OF CLAIMS<br>PREVIOUSLY<br>PAID FOR | ADD'L<br>CLAIMS FILED | LARGE ENTITY<br>FEE | \$ FEE |
| A                   | TOTAL CLAIMS FEE  | 20  | 21                                      | 0                     | X \$ 50             | \$ 0   |
| B                   | INDEPENDENT<br>CLAIMS FEE**   | 1   | 3                                       | 0                     | X \$210             | 0      |
| C                   | MULTIPLE-<br>DEPENDENT  |   |   |                       | X \$ 370            | 0      |
| D                   | EXTENSION OF TIME FEE — 1-mon: \$120; 2-mon: \$460; 3-mon: \$1,050; 4-mon: \$1,640; 5-mon: \$2,230  |   |   |                       |                     | 0      |
| E                   | ADDITIONAL FEES (i.e., Surcharge – Late Fee- Declaration; Petitions; Information Disclosure Statement; Terminal Disclaimer, etc.)<br>Specify: |   |   |                       |                     | 0      |
| F                   | <b>TOTAL ADDITIONAL FEE**</b> (ADD TOTALS FOR LINES A,B,C,D, and E)   |   |   |                       |                     | \$ -0- |

  

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|--|---------------|---|
| <input checked="" type="checkbox"/> Charge Deposit Account No. <b>16-0068</b><br>the amount of | <b>\$ -0-</b> | <b>A copy of this letter is enclosed.</b> |
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☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 16-0068

☒ Any additional filing fees required under 37 CFR 1.16.

☒ Any patent application processing fees under 37 CFR 1.17.

☒ The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application or credit any overpayment to Deposit Account No. 16-0068

☒ Any patent application processing fees under 37 CFR 1.17.

☒ Any filing fees under 37 CFR 1.16 for presentation of extra claims.

Respectfully submitted,

Date

11-7-07

Peter A. Nichols, Reg. No. 47,822  
Patent Attorney for Applicant  
818-493-2323

**CUSTOMER NUMBER: 36802**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**SUBMISSION OF NEW DECLARATION AND REMARKS**

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being e-filed with the  
United States Patent and Trademark Office on:

November 7, 2007

  
Melinda E. Hallmark

Date

Sir:

In the Notice of Allowability mailed August 13, 2007, the Examiner rejected the inventor declaration. Submitted herewith is a new declaration to overcome the rejection; however Applicants respectfully disagree with the rejection for the following reasons.

The Examiner alleges the inventor declaration is defective because the declaration states that the inventor acknowledges a duty to disclose information which is material "to the examination of the application" rather than information material "to patentability" as defined in Section 1.56. Applicants respectfully disagree with the Examiner's rejection of the inventor declaration.

Applicants submit that 37 CFR section 1.63 (see Exhibit A) previously required an acknowledgement of Applicant's duty to disclose information that is "material to the examination of the application". However, in a "Duty of Disclosure" rule change published at 1135 OG 13 (February 4, 1992), Rule 63 was changed so that its language tracked the "material to patentability" language of Rule 56 (See Exhibit B).

**PATENT**

In making this change, and in reply to Comment 38 at 1135 OG 17 (see Exhibit C), the Office stated the averments in oath or declaration forms presently in use that comply with the previous section 1.63 or 1.175 will also comply with the requirement of the new rules. The Office also stated, "Therefore, the Office will continue to accept the old oath or declaration forms as complying with the new rules." Applicants therefore submit that the inventor declaration, which complies with the requirements of Rule 63 prior to the 1992 rule change, also complies with the requirements of the current rule and should be accepted.

Moreover, the first page of the Duty of Disclosure Rulemaking (see Exhibit B) as published at 1135 OG 13 (February 4, 1992) explains that an Applicant for a patent also has a duty of candor and good faith in dealing with the Patent Office and that this duty is **broader** than the duty to disclose information material to patentability. Therefore, Applicants submit that the duty to disclose information material to the "examination" of the application (which includes the duty of candor and good faith) as recited in the inventor declaration for the subject application is broader than and includes the duty to disclose information material to the patentability of the application as required by the Examiner.

Applicants therefore submit that the as filed inventor declaration encompasses a broader duty of disclosure and complies with the requirements of 37 CFR 1.63. However, in the interest of moving this case to issuance, Applicants hereby submit a new declaration with the language required by the Examiner.

Respectfully submitted,

11.7.07  
Date

Peter A. Nichols  
Peter A. Nichols, Reg. No. 47,822  
Patent Attorney for Applicant  
818-493-2323

**CUSTOMER NUMBER: 36802**